

1 DANIEL J. BRODERICK, #89424
2 Federal Defender
3 DAVID M. PORTER, Bar #127024
Counsel Designated for Service
Assistant Federal Defender
801 I Street, 3rd Floor
Sacramento, California 95814
Telephone: (916) 498-5700
5
6 Attorney for Defendant
MARCOS ENRIQUE GARCIA
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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,) No. Cr. S 03-549 EJG
12 Plaintiff,)
13 v.) **STIPULATED MOTION TO REDUCE
SENTENCE PURSUANT TO 18 U.S.C.
§ 3582(c)(2) and [lodged] ORDER**
14 MARCOS ENRIQUE GARCIA,)
15 Defendant.) **RETROACTIVE CRACK COCAINE
REDUCTION CASE**
16 _____)
17)

17 Defendant, MARCOS ENRIQUE GARCIA, by and through his attorney,
18 Assistant Federal Defender David M. Porter, and plaintiff, UNITED
19 STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney
20 RICHARD J. BENDER, hereby stipulate as follows:

21 1. Pursuant to 18 U.S.C. § 3582(c)(2), this court may reduce the
22 term of imprisonment in the case of a defendant who has been sentenced
23 to a term of imprisonment based on a sentencing range that has
24 subsequently been lowered by the Sentencing Commission pursuant to 28
25 U.S.C. § 994(o);

26 2. On June 10, 2005, this Court sentenced Mr. Garcia to a term
27 of imprisonment of 84 months;

28 3. The sentencing range applicable to Mr. Garcia was

1 subsequently lowered by the United States Sentencing Commission in
2 Amendment 706 by two levels;

3 4. Accordingly, Mr. Garcia's adjusted offense level has been
4 reduced from 33 to 31, and a sentence at the low end of the new
5 guideline range with a departure comparable to the 38% reduction he
6 received at the original sentencing would be 67 months;

7 5. Accordingly, the parties request the court enter the order
8 lodged herewith reducing Mr. Garcia's term of imprisonment to an
9 aggregate term of 67 months on all counts.

10 Dated: May 7, 2008

11 Respectfully submitted,

12 McGREGOR SCOTT
United States Attorney

DANIEL J. BRODERICK
Federal Defender

14 /s/ Richard Bender

/s/ David M. Porter

15 RICHARD J. BENDER
Assistant U.S. Attorney
16 Attorney for Plaintiff
17 UNITED STATES OF AMERICA

DAVID M. PORTER
Assistant Federal Defender
Attorney for Movant
MARCOS ENRIQUE GARCIA

18 ORDER

19 This matter came before the Court on the stipulated motion of the
20 defendant for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

21 The parties agree, and the Court finds, that Mr. Garcia is
22 entitled to the benefit of the retroactive amendment reducing crack
23 cocaine penalties, which reduces the applicable base offense level from
24 33 to 31. A sentence at the low end of the new guideline range with a
25 departure comparable to the 38% reduction he received at the original
26 sentencing would be 67 months.

27 IT IS HEREBY ORDERED that the term of imprisonment originally
28 imposed is reduced to an aggregate term of 67 months on all counts.

STIPULATED MOTION AND ORDER TO REDUCE SENTENCE

1 IT IS FURTHER ORDERED that all other terms and provisions of the
2 original judgment remain in effect.

3 Unless otherwise ordered, Mr. Garcia shall report to the United
4 States Probation office closest to the release destination within
5 seventy-two hours after his release.

6 Dated: May 13, 2008

7 /s/ Edward J. Garcia

8 HONORABLE EDWARD J. GARCIA
United States District Judge